

REMARKS

Summary of the Office Action

Claims 1-10 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by the Published European Patent Application EP 0 856 972 A2,

Claims 1-10 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by the Published European Patent Application EP 0 878 956 A1,

Claims 1-10 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Ohtsuka* (U.S. Patent No. 6,327,049).

Summary of the Response to the Office Action

Applicant respectfully submits that the rejections under 35 U.S.C. §102 are improper and therefore should be withdrawn. Accordingly, claims 1-10 remain pending for further consideration.

The Rejection under 35 U.S.C. §102(a) based on Published European Patent Application

EP 0 856 972 A2

Claims 1-10 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by the Published European Patent Application EP 0 856 972 A2 (hereinafter Document 1).

The instant application provides a photographic print having reproducibility as excellent as that in a finished print obtained at the time of film processing even when a request for reprinting was made to another laboratory. To this end, the instant application sends the photographic printing condition of each image used when a previous printing (printing with film processing) was performed at each of the photographic processing sites, from each photographic

processing site to the center having a database via a communication line, and stores the photographic condition in the database.

Document 1 is directed to a network photograph service system which provides a prompt service to a customer without losing the advantage, such as ease of understanding where to access, collective data management, etc.

The Final Office Action, by referring to column 6, lines 11-23 of Document 1, indicates that the template could include procedures such as “to rotate the specified picture by 90°” or “lower the saturation of the specified picture.” and goes on to allege that these are printing conditions.

While the information about the template serves as a portion of the instruction information according to description at lines 43-53 in column 5 of Document 1, Applicant respectfully submits that the information about the template or other instruction information in Document 1, was not used as the photographic printing condition recited in claim 1 for producing a photographic print when a previous printing has been performed at each of the photographic processing sites, and was also not obtained as the photographic printing condition recited in claim 6 when the previous printing has been performed at each of the photographic processing sites.

Description at lines 2-4 in column 12 of Document 1 discloses that each time a new template is generated in each minilab 3 and the template is registered in the center server 12. Fig. 2 of Document 1 discloses that the instruction information that contains the template as a portion thereof is produced based on the order information sent from the customer 1 to the service center 2, and is then sent from the service center 2 to a minilab 3 selected from among a plurality of minilabs 3.

Applicant respectfully submits that the photographic printing condition in the instant application is different from the template in Document 1. The photographic printing condition in the instant application is used to finish each of original images such as film images as a photographic print and hence is determined for each of the original images. On the contrary, Applicant respectfully submits that the template in Document 1 is not outputted alone but is applied to various original images so that the template is combined with individual original images to obtain finished photographic prints as composite images each of which includes one of the original images and the template. Accordingly, Applicant respectfully submits that the photographic printing condition in the instant application is different from the template in Document 1.

In addition, since the photographic printing condition of the instant application is set for one original image to achieve coincidence in color or density finishing of the photographic prints reproduced from the original image at the time of reprinting and previous printing, Applicant respectfully submits that, unlike Document 1, the photographic printing condition of the instant application is determined for each original image.

Accordingly, Applicant respectfully asserts that Document 1 fails to teach or suggest each and every feature of independent claims 1 and 6 of the instant application.

The Rejection under 35 U.S.C. §102(a) based on Published European Patent Application

EP 0 878 956 A1

Claims 1-10 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by the Published European Patent Application EP 0 878 956 A1 (hereinafter Document 2).

Document 2 aims to make available a service in which silver-salt photographic pictures or images are transmitted, displayed, edited and printed at practically acceptable fees, by using communication lines such as telephone lines or ISDN lines which can be easily used at household economy levels. To be more specific, the same image editorial works as those performed on an image at a low resolution using an image editing device of a user are performed on the same image at a high resolution using an image editing device in a shop thereby obtaining a high-resolution, high-quality image, which is then outputted as a print. Applicant respectfully submits that unlike the instant application, Document 2 does not aim to achieve coincidence in finishing of the photographic prints obtained in a previous printing and in another printing performed later (in terms of color or density reproduction).

The Final Office Action states that these image editorial functions are printing conditions. However, Applicant respectfully submits that the editorial information in Document 2, is not used as the photographic condition recited in claim 1 for producing a photographic print when the previous printing has been performed at each of the photographic processing sites, and is also not obtained as the photographic condition recited in claim 6 when the previous printing has been performed at each of the photographic processing sites.

In addition, unlike the photographic condition in the instant application, Applicant respectfully submits that the editorial information in Document 2 is not sent from the branch shops 1 and 2 that the Final Office Action deems to be different processing site, to the Web server 9, but from the user 7 or 10 to the Web server 9.

Accordingly, Applicant respectfully asserts that Document 2 fails to teach or suggest each and every feature of independent claims 1 and 6 of the instant application.

The Rejection under 35 U.S.C. §102(e) based on *Ohtsuka* (U.S. Patent No. 6,327,049)

Claims 1-10 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by the *Ohtsuka* (U.S. Patent No. 6,327,049) (hereinafter Document 3).

Document 3 aims to reduce a data transfer load and to limit the usage of a template when a printing service of processed photographs is carried out in a digital photographic service.

Applicant respectfully submits that unlike the instant application, Document 3 does not aim to achieve coincidence in finishing of the photographic prints obtained in a previous printing and in another printing performed later (in terms of color or density reproduction).

The Final Office Action states that in Document 3, Figs. 1 and 3 show a laboratory system 2 (2a, 2b and 2c) which comprise a plurality of different photographic processing sites, an element 7 is the center having a database which stores printing conditions, and description at lines 42-59 in column 10, a table 3 in column 11 and Fig. 4 disclose some of the printing conditions.

However, Applicant respectfully submits that the printing conditions in Document 3 that can be read as the kinds of image processing to be performed on the image data which are described in the order file 6, are not used as the photographic condition recited in claim 1 for producing a photographic print when the previous printing has been performed at each of the photographic processing sites, and are also not obtained as the photographic condition recited in claim 6 when the previous printing has been performed at each of the photographic processing sites.

In addition, as evidenced by description at lines 2-8 in column 8 of Document 3, Applicant respectfully submits that unlike the photographic condition in the instant application, the order file 6 of Document 3 is not sent from the laboratory system 2 that the Final Office

Action deems to be the photographic processing site to the center 7 but from the user terminal 5 to the center 7 or laboratory system 2.

Accordingly, Applicant respectfully asserts that Document 3 fails to teach or suggest each and every feature of independent claims 1 and 6 of the instant application.

As above discussed, Applicant respectfully submits that the printing condition recited in claims 1 and 6 are distinguished from the instruction information including the template and order information in Document 1, the editorial information in Document 2, and the order file 6 (kind of image processing described in the order file) in Document 3, which are not sent from the photographic processing sites to the center.

In addition, Applicant respectfully submits that Documents 1, 2 and 3 do not aim to achieve coincidence in finishing of the photographic prints obtained in a previous printing and in another printing performed later (in terms of color or density reproduction), or disclose that a photographic printing condition such as an image processing condition for each original image used for producing a photographic print when a previous printing such as printing with film processing has been performed at a photographic processing site is sent to the center via a communication line and stored in the database, which is thereafter accessed via the communication line from another photographic processing site to which a request for producing a photographic print from the same original image was made, to obtain the photographic printing condition of the original image from the database thereby achieving coincidence in finishing of the photographic prints obtained in a previous printing and in another printing performed later.

Accordingly, for at least these reasons, Applicant respectfully asserts that the rejections of claims 1 and 6 under U.S.C. §102 based on Documents 1, 2 and 3 are improper and therefore should be withdrawn. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference

must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Furthermore, Applicant respectfully asserts that the rejections of dependent claims 2-5 and 7-10 should also be withdrawn at least because of their dependencies upon independent claims 1 and 6, and for the reasons set forth above.

With no other rejection pending, Applicant respectfully submits that claims 1-10 are in condition for allowance.

Conclusion

In view of the foregoing, Applicant requests the entry of this Request for Reconsideration to place the application in clear condition for allowance or, in the alternative, in better form for appeal. Applicant also requests the Examiner's reconsideration and reexamination of the application and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

Applicant respectfully requests a three month extension. Please charge the amount of \$930.00 to our Deposit Account No. 50-0310.

Except for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310.

Respectfully Submitted,

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Dated: May 5, 2003

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